

**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**DRAFT PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT \_\_\_\_\_**

**OF:** Beckstoffer Vineyards XIV  
c/o Rich Schaefers  
P.O. Box 218  
Talmage, CA 95481

**1. Source of water**

Source:  
**Russian River Underflow**  
**Russian River**

Tributary to:  
**Pacific Ocean**  
**Pacific Ocean**

within the County of **Mendocino**

**2. Location of points of diversion**

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
(1) North 2,122,990 feet and East 6,246,600 feet	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	18	13N	11W	MD
(2) North 2,123,075 feet and East 6,247,075 feet	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	18	13N	11W	MD
(3) North 2,121,260 feet and East 6,247,035 feet	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	19	13N	11W	MD
(4) North 2,119,105 feet and East 6,246,620 feet	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	19	13N	11W	MD
(5) North 2,118,360 feet and East 6,246,260 feet	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	19	13N	11W	MD

**Location of places of storage**

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>Reservoir A (Milovina)</b>	NW $\frac{1}{4}$ of SW $\frac{1}{4}$ NE $\frac{1}{4}$ of SW $\frac{1}{4}$ SE $\frac{1}{4}$ of NW $\frac{1}{4}$ SW $\frac{1}{4}$ of NW $\frac{1}{4}$	18	13N	11W	MD
<b>Reservoir B (MK)</b>	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	19	13N	11W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Irrigation, Frost Protection, Heat Control</b>	<b>NE<math>\frac{1}{4}</math> of NW<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>1</b>
	<b>SW<math>\frac{1}{4}</math> of NW<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>8</b>
	<b>SE<math>\frac{1}{4}</math> of NW<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>34</b>
	<b>NW<math>\frac{1}{4}</math> of NE<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>10</b>
	<b>SE<math>\frac{1}{4}</math> of NE<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>1</b>
	<b>SW<math>\frac{1}{4}</math> of NE<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>32</b>
	<b>NW<math>\frac{1}{4}</math> of SW<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>4</b>
	<b>NE<math>\frac{1}{4}</math> of SW<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>34</b>
	<b>SE<math>\frac{1}{4}</math> of SW<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>8</b>
	<b>NW<math>\frac{1}{4}</math> of SE<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>39</b>
	<b>NE<math>\frac{1}{4}</math> of SE<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>8</b>
	<b>SE<math>\frac{1}{4}</math> of SE<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>5</b>
	<b>SW<math>\frac{1}{4}</math> of SE<math>\frac{1}{4}</math></b>	<b>18</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>34</b>
	<b>NE<math>\frac{1}{4}</math> of NW<math>\frac{1}{4}</math></b>	<b>19</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>22</b>
	<b>SE<math>\frac{1}{4}</math> of NW<math>\frac{1}{4}</math></b>	<b>19</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>24</b>
	<b>NW<math>\frac{1}{4}</math> of NE<math>\frac{1}{4}</math></b>	<b>19</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>30</b>
	<b>NE<math>\frac{1}{4}</math> of NE<math>\frac{1}{4}</math></b>	<b>19</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>6</b>
	<b>SW<math>\frac{1}{4}</math> of NE<math>\frac{1}{4}</math></b>	<b>19</b>	<b>13N</b>	<b>11W</b>	<b>MD</b>	<b>20</b>
					<b>Total</b>	<b>320</b>

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of **two hundred seventy-four (274)** acre-feet per annum to be collected from **December 15** of each year to **May 15** of the succeeding year as follows: (1) **134** acre-feet per annum in **Reservoir A** and (2) **140** acre-feet per annum in **Reservoir B**. **This permit does not authorize diversion to offstream storage and the simultaneous withdrawal from offstream storage for beneficial use.**  
(0000005D)
6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.  
(0000005I)
7. The maximum rate of diversion to offstream storage shall not exceed **9** cubic feet per second from **December 15** of each year to **May 15** of the succeeding year.  
(0000005J)

8. The water appropriated shall not exceed **274** acre-feet per annum to be collected from **December 15** of each year to **May 15** of the succeeding year. This amount is inclusive of **137** acre-feet for replenishment of initial storage withdrawn for beneficial use collected between **March 1** to **May 15** of each year.  
(0000005K)
9. The total combined capacity of the reservoirs covered under this permit shall not exceed **137** acre feet; Individually, the capacity of **Reservoir A** shall not exceed **67** acre-feet and the capacity of **Reservoir B** shall not exceed **70** acre-feet, which are the stated capacities in the application.  
(0000005P)
10. For the protection of fish, wildlife, instream uses, and other legal users of water Permittee may only divert water under this permit when:
  - a. The flow measured at **USGS gage 11462500 (Russian River Near Hopland)** is greater than the normal condition minimum flow requirements for the upper reach of the Russian River as established in Decision 1610 (150 or 185 cubic feet per second), and
  - b. The flow measured at **USGS gage 11463000 (Gage Russian River Near Cloverdale)** exceeds the flow measured at **USGS gage 11462500 (Gage Russian River Near Hopland)**.

When condition (b) above is not met, for the protection of fish, wildlife, instream uses, and other legal user of water Permittee may only divert water under this permit when:

- a. from **December 15** through **February 29**, the flow measured at **USGS gage 11462500 (Russian River Near Hopland)** is greater than **273** cubic feet per second,
- b. from **March 1** through **March 31**, the flow measured at **USGS gage 11462500 (Russian River Near Hopland)** is greater than **363** cubic feet per second,
- c. from **April 1** through **April 30**, the flow measured at **USGS gage 11462500 (Russian River Near Hopland)** is greater than **402** cubic feet per second, and
- d. from **May 1** through **May 15**, the flow measured at **USGS gage 11462500 (Russian River Near Hopland)** is greater than **412** cubic feet per second.

These minimum flow thresholds are inclusive of the normal condition minimum flow requirements for the upper reach of the Russian River as established in Decision 1610 (150 or 185 cubic feet per second) and the demand of senior water rights between **USGS gage 11462500 (Russian River Near Hopland)** and **USGS gage 11463000 (Gage Russian River Near Cloverdale)**. The State Water Resources Control Board reserves jurisdiction to administratively amend the minimum flow thresholds in this permit to reflect any future modifications to the established minimum flow requirements for the upper reach of the Russian River after a State Water Resources Control Board hearing regarding changes to Decision 1610.

No diversion is authorized under this permit whenever the flow in the Russian River is less than the designated amount as measured at **USGS gage 11462500 (Russian River Near Hopland)**. In the event that said gage is no longer available for streamflow measurements, Permittee (or successors-in-interest) shall immediately notify and consult with the Deputy Director for Water Rights. These requirements shall remain in force as long as water is being diverted by Permittee (or successors-in-interest) under any permit or license issued pursuant to Application **31870**.

(0140060)  
(0000204)

11. Prior to the start of the diversion or use of water under this permit, the Permittee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights that will demonstrate continuous compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:

- a. A description of the gages and monitoring devices that will be installed or have been installed to measure amounts diverted to storage and reservoir storage capacity, including any necessary calibration;
- b. A time schedule for the installation and rating of these facilities;
- c. A description of the frequency of data collection and the methods for recording streamflows and storage levels;
- d. An operation and maintenance plan that will be used to maintain all facilities in good condition; and
- e. A description of the events that will trigger recalibration of the monitoring devices, and the process that will be used to recalibrate.

The Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all facilities used to monitor the rate and quantity of water diverted into the reservoir, and reservoir storage levels described in the Compliance Plan.

Permittee shall maintain all measurements and other monitoring required by this condition. Permittee shall provide measuring and monitoring records to the Deputy Director for Water Rights within 15 days upon request by the State Water Resources Control Board, the Deputy Director for Water Rights, or other authorized designees of the State Water Resources Control Board.

Diversion or use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

(0000070)

12. Construction work and complete application of water to the authorized use shall be prosecuted with reasonable diligence and be completed by **December 31, 2021**.

(0000009)

13. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, Permittee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Deputy Director for Water Rights.

(0000030)

14. Before storing water in the reservoir, Permittee shall install a staff gage in each reservoir, satisfactory to the Deputy Director for Water Rights, for the purpose of determining water levels in the reservoir. These staff gages must be maintained in operating condition as long as water is being diverted or used under this permit.

Permittee shall record the staff gage readings on or about the last day of each month and on December 15 and May 15 annually. Permittee shall maintain a record of all staff gage readings and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.

The State Water Resources Control Board may require release of water that cannot be verified as having been collected under a valid basis of right.

(0100047)

15. No water shall be diverted under this permit until Permittee installs and maintains an in-line flow meter, satisfactory to the Deputy Director for Water Rights that is capable of measuring the cumulative amount of water withdrawn for beneficial use from each reservoir. Permittee shall maintain records of date and time of withdrawal, and the amount of water withdrawn from each reservoir. Permittee shall submit these records with annual progress reports, or whenever requested by the Deputy Director for Water Rights.

(0100900)
16. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the quantity of water diverted into each reservoir from the Russian River. Permittee shall maintain records of date and time of actual diversion, the rate of diversion at time intervals of one hour or less, and the amount of water diverted into each reservoir. Permittee shall submit these records of diversion from the Russian River with annual progress reports, or whenever requested by the Deputy Director for Water Rights.

(0060046)
17. If Reservoir A is of such size as to be within the jurisdiction of the Department of Water Resources as to safety, storage under this permit shall not be commenced until the Department has approved the plans and specifications for the reservoir.

(0360048B)
18. If Reservoir B will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the reservoir.

(0360048A)
19. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the State Water Resources Control Board concerning availability of water and the protection of beneficial uses of water in the Russian River. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000080)
20. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Russian River Watershed are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the State Water Resources Control Board, made after notice to interested parties and opportunity for hearing.

(0000090A)
21. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, Permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, North Coast Region, or by the State Water Resources Control Board.

(0000100)
23. Prior to the diversion of water and construction of the offstream reservoir, Permittee shall obtain coverage from the North Coast Regional Water Quality Control Board under the General Permit for Storm Water Discharges associated with construction and land disturbance activities prior to conducting any construction activities that disturb more than one acre of soil.

(0290300)
24. Permittee shall obtain all necessary federal, state, and local agency permits required by other agencies prior to construction and diversion of water under this permit. Copies of such permits and approvals shall be forwarded to the Deputy Director for Water Rights.

(0000203M)

25. Permittee shall prevent any debris, soil, silt, cement that has not set, oil, or other such foreign substance from entering into or be placed where it may be washed by rainfall runoff into the waters of the State.

(0000208)

26. No water shall be diverted under this Permit until Permittee has constructed a fish screen or has proposed and constructed an alternative. Any alternative must comply with the Department of Fish and Game criteria and receive their written approval. Permittee shall submit a copy of the State Department of Fish and Game's written approval of the plans and design calculations to the Division of Water Rights within 30 days from the date of the approval. Construction, operation, and maintenance of any required facility are the responsibility of the Permittee. If the fish screen or any alternative is rendered inoperative for any reason, the Permittee shall notify the Deputy Director for Water Rights immediately and shall restore the equipment to service as soon as possible.

(0000213)

27. Permittee shall not use more water under the basis of riparian right on the place of use authorized by this permit than Permittee would have used absent the appropriation authorized by this permit.

Based on the information in the Division's files, approximately 317 acre-feet per year of water has been used on the place of use under a riparian claim. Therefore, consistent with this term, Permittee may not divert any additional water for use on the place of use authorized by this permit under basis of riparian claim. With the Deputy Director for Water Right's approval, this information may be updated, and Permittee may use water under basis of riparian claim on the authorized place of use, provided that Permittee submits reliable evidence to the Deputy Director for Water Rights quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Deputy Director for Water Rights is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

(0560300a)

28. The State Water Resources Control Board reserves jurisdiction in the public interest to modify the terms and conditions of this permit, including imposition of requirements to alter project facilities or operations and to modify instream flow releases, in the event of unforeseen adverse impacts to fish or wildlife. Board action will be taken only after notice to interested parties and opportunity for hearing.

(000000M)

29. Permittee shall report any non-compliance with the terms of the permit to the Deputy Director for Water Rights within three days of identification of the violation.

(9990999)

30. The State Water Resources Control Board intends to develop and implement a basin-wide program for real-time electronic reporting of streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Resources Control Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this permit.

(0090801)



**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by Permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said State Water Resources Control Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
- E. The continuing authority of the State Water Resources Control Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of Permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the State Water Resources Control Board also may be exercised by imposing further limitations on the diversion and use of water by the Permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)
- F. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the Permittee and an opportunity for hearing, the State Water Resources Control Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

- G. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
- (0000014)
- H. Permittee shall maintain records of the amount of water diverted and used to enable State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.
- (0000015)
- I. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a Lake and Streambed Alteration Agreement between the California Department of Fish and Game and the Permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the Permittee. If a Lake and Streambed Alteration Agreement is not necessary for this permitted project, the Permittee shall provide the Division of Water Rights a copy of a waiver signed by the California Department of Fish and Game.
- (0000063)



***This permit is issued and Permittee takes it subject to the following provisions of the Water Code:***

*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every Permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any Permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any Permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

STATE WATER RESOURCES CONTROL BOARD

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: